

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

X

H Katz

Plaintiff,

against

Joe R MOCUS

All That Glitter Inc

Defendant(s).

NOTICE OF MOTION

06CV574

CV (ABC)

[docket number] [judge's initials]

06CV574 DL Irizarry

X

PLEASE TAKE NOTICE that upon the annexed affidavit or  
affirmation Joe R MOCUS sworn to or affirmed

May 27, 2006 and upon the complaint herein,  
plaintiff will move this Court, Honorable Don Lizzette Irizarry  
(Judge's name) U.S.D.J.,

in room     United States Courthouse, Brooklyn, New York, 11201,

on the 27th day of May, 2006, at (time) or as

soon thereafter as counsel can be heard, for an order pursuant to

Rule     of the Federal Rules of Civil Procedure granting

by Motion for a change of venue in

this case 06CV574

Dated: Morgan West Virginia  
county, New York

date May 27/2006

Joe R MOCUS  
Joe R MOCUS

PLAINTIFF PRO SE

Mailing  
address →

PO Box 602

Cross Junction

Virginia 22625

MAY 30 2006

PRO SE OFFICE

Home Address

125 Ruff Grouse Rd.

Berkeley Springs W.Va.

Phone - 304-258-4247

no  
mail  
this  
address

**AFFIDAVIT/AFFIRMATION  
IN SUPPORT OF MOTION**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

H Katz X

-against-

Joe R Mogus  
All That Glitter Inc. X

AFFIDAVIT/AFFIRMATION

06 CV 574  
CV ( )

West Virginia  
STATE OF ~~NEW YORK~~  
COUNTY OF MORGAN ) ss.:

Joe Mogus [BEING DULY SWORN] deposes

and says [or: ~~makes~~ the following affirmation under the penalties  
of perjury]

Joe R Mogus am the <sup>Pro Se</sup> ~~plaintiff~~ <sup>Defendant</sup> in the above-

entitled action, and respectfully move this Court to issue an  
order to change venue in the above case

The reason why I am entitled to the relief I seek is the  
following: Please note Exhibit A - # 5 is an

untruth, the defendant resides in West Virginia  
and has since 1998 - Please note Exhibit B,  
my West Virginia Driver's License -

(You may use additional 8 1/2 x 11 paper if needed)

## Additional for Affirmation

I, Joe R Mosus has never resided, owned property or even been in New York state or city since 1999 - or 2000, not even for one day. I swear this is true!

I respectfully ask this case then be moved to a location of mutual convenience to both Plaintiff and Defendant - perhaps Harrisburg or Baltimore Maryland being equi-distant for both parties, essentially.

As it is, the Plaintiff and his counsel drive only a few blocks, while I, the Defendant would be forced hundreds of miles, roughly 400-500 miles each way, and at great expense and repeatedly. This places me, Joe R Mosus at real disadvantage - given this disadvantage I honestly do not know if I could mount a proper defense. Again I ask the court to transfer this case to a location of mutual convenience to both parties, I emphasize both parties.

Most Sincerely

Joe R Mosus  
Joe R Mosus

\* Berkeley Springs  
West Virginia 25411

P.S. The Plaintiff absolutely knows I do not live in the district he absolutely knows I live in West Virginia we have known each other 20 years, since 1985.

Exhibit A - from Original Complaint

4. Plaintiff also asserts actions under states' laws, which may be brought within the supplemental jurisdiction of this Court, and Plaintiff respectfully requests that this Honorable Court exercise supplemental jurisdiction over said claims. 28 U.S.C. 1367.

\* 5. Venue is proper in this District as the Defendant resides in this judicial district. 28 U.S.C. 1391(b)(1). *This is not true*

6. Plaintiff requests a trial by jury.

7. Over the past six years Defendant did request and receive from Plaintiff, various items of gold jewelry for the purpose of inspection and to show to Defendant's customers.

8. Said jewelry was often sold and Defendant would pay Plaintiff for the sold items, however, numerous items of jewelry remained with Defendant.

9. Plaintiff ~~did demand~~ that Defendant pay for the outstanding items and at the time of this complaint; the total sum due was \$151,000.00, exclusive of any adjustment in the market fluctuations of the price of gold.

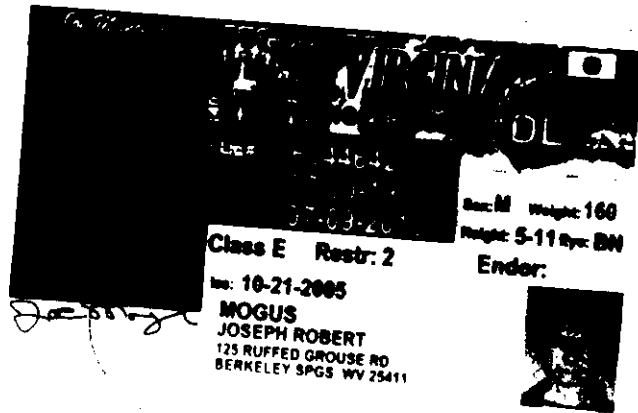
10. Defendant promised to pay the outstanding balance and did make periodic payments from time to time.

11. Demand for payment has been made by Plaintiff upon defendant and defendant has refused to pay.

#### COUNT TWO

12. Plaintiff ~~repeats~~, reiterates and realleges each and every allegation contained in the paragraphs of this complaint in Count One with the same force and effect as if herein fully set forth.

13. Said sum due to plaintiff constitutes an account stated.



## Exhibit A

I have lived here in West Virginia since 1998  
Before 5 years in Pennsylvania  
Before Pennsylvania, 13 years in Maryland

Have never lived owned property or had a  
business in New York City or State

Have not set foot in New York since 1999  
or perhaps 2000 - 6 years at least.

The assertion that I reside within the  
jurisdiction of this court Eastern District of New  
York is simply Not true - it is an untruth.

WHEREFORE, I respectfully request that the court grant the within motion, as well as such other and further relief that may be just and proper.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

May 27 / 2006  
(Date)

Joe R Magus  
Your Signature

Print your name

Joe R Magus